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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/525,140

02/16/2005

Paul R. Simons

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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EXAMINER

ALLI, IYABO

ART UNIT

PAPER NUMBER

2112

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/525,140

Applicant(s)

SIMONS ET AL.

Examiner

IYABO S. ALLI

Art Unit

2112

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13 and 15 is/are rejected.
- 7) ☒ Claim(s) 12 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/16/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/16/2005.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: The headings for the Field of Invention, Background of the Invention, Summary of the Invention, Brief Description of Drawings, Detailed Description and Claims in the specification for the are all missing.

Appropriate corrections are required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4-6 & 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Vincent (5,272,518).

In regards to claims 1, 2, & 6, Vincent discloses a colorimeter and calibration system comprising:

sensing color information representative of an article being sampled (Column 37, lines 1-4), with a portable user device **11** having an optical sensor (Column 92, lines 1-5);

generating a color definition data file from said color information and transmitting said color definition data file to a remote database **70** (Column 13, lines 17-21);

searching the database **70** for data items that match color criteria indicated by the transmitted color definition data and generating a list of said data items and transmitting said list of data items to the user device **11** (Column 13, lines 4-17 and Figs. 2 & 4);

directing a digital camera at least a portion of the article to form an image thereof and defining a target region of the image for which target region the color information is to be sampled (Column 6, lines 1-6); and

providing as output to a user, the one or more data items in the list on the portable user device **11** (Column 24, lines 27-31).

In regards to claims **4 & 5**, determining a temperature of the light illuminating the color image and receiving from the remote database **70** a list of one or more data items that matches color criteria indicated by the transmitted color definition data (Column 17, lines 11-19); and

generating a color definition data file includes incorporating temperature of the light illuminating the image that produced the color definition data file (Column 17, lines 24-26).

And in regards to Claim 15, an optical sensor for sensing color information representative of the color of an article being sampled, means for generating a color definition data file from said color information; and

a memory for storing a plurality of color definition data files relating to previously sampled objects (Column 25, lines 13-19), a comparison engine 58 for receiving a color definition data file relating to a current sampled article and for searching color definition data files in the memory to determine any of the stored files which match color criteria indicated by the color definition data for a current sample and means for indicating determined stored files that match the color criteria (Column 23, lines 1-7 and Fig. 2).

4. Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by **Van Aken et al.** (5,483,339).

Van Aken discloses a spectrophotometer and radiometric measurement apparatus comprising:

receiving a color definition data file including color information representative of a sampled article, from a portable user device (Column 11, lines 1-6);

searching a database for data items that match color criteria indicated by the transmitted color definition data (Columns 124-132);

generating a list of one or more data items each relating to an article that matches color criteria indicated by the received color definition data file (Column 17, lines 8-13); and

transmitting said list of data items to the user device (Column 122, lines 1-7).

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 9 & 13 are rejected under 35 U.S.C. 102(e) as being anticipated by **Van Mestha et al.** (6,584,435).

Mestha discloses a systems and methods for determining spectra using dynamic karhunen-loeve algorithms with measurements from led color sensor comprising:

In regards to claim 9, sensing color information representative of the color of an article being sampled with an optical sensor 130, generating a color definition data file from said color information, storing a plurality of color definition data files relating to previously sampled objects;

receiving a color definition data file relating to a current sampled article, and searching color definition data files in the memory 150 to determine if any of the stored

files match color criteria indicated by the color definition data for a current sample (Column 7, lines 1-5), and

providing as output on the color matching device an indication if any stored files match the color criteria (Column 21, lines 1-7 and Figs. 1, 2 & 4).

In regards to claim **13**, means for receiving, from a portable color sampling device a color definition data file indicating sensed color information representative of the color of an article (Column 7, lines 7-14);

a database of data items, each data item relating to an article and one or more color properties of that article;

a search engine for receiving the color definition data file and locating, in the database **172**, data items that match color criteria indicated by the transmitted color definition data, means for generating a list of said data items (Column 12, lines 1-7); and

means for transmitting said list of data items to the portable color sampling device (Column 55, lines 1-8 and Fig. 4).

You can construe that there is a program for searching the database for the desired color matches as in the claimed search engine.

7. Claims **10 & 11** are rejected under 35 U.S.C. 102(e) as being as being anticipated by **Hoffberg et al.** (6,640,145).

Hoffberg discloses a media recording device with packet data interface comprising:

an optical sensor **2301** for sensing color information representative of the color of an article being sampled;

a means for generating a color definition data file from said color information, a wireless transmitter for transmitting said color definition data file to a remote database and a wireless receiver **2408** for receiving, from said remote database;

a list of data items that match color criteria indicated by the transmitted color definition data (Columns 244 & 288, lines 1-6); and

a sampling device in which the optical sensor **2301** further includes means for determining the temperature of the light used to illuminate the color image (Column 241, lines 11-14 and Fig. 23).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims **3 & 7** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Vincent** (5,272,518) in view of **Cheetam et al.** (5,668,633).

Vincent discloses all of the claimed limitations from above except determining an average of the sensed color information or a representative color set, for use in generating the color definition data file and receiving product location information with

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each of the received data items; and providing as output said product location information on the portable user device.

However, in regards to claims **3 & 7**, **Cheetam** teaches determining an average of the sensed color information or a representative color set, for use in generating the color definition data file (Column 15, lines 20-26) and receiving product location information with each of the received data items; and providing as output said product location information on the portable user device (Column 16, lines 1-5).

Given the teachings of **Cheetam**, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the colorimeter and calibration system of **Vincent** with the determination of an average of the sensed color information or a representative color set, for use in generating the color definition data file and receiving product location information with each of the received data items; and providing as output said product location information on the portable user device.

Doing so would provide a more precise color match possible.

Allowable Subject Matter

Claims **12 & 14** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. **US 2002/0176388; US 2006/019775; 6,871,409 & 6,870,614 .**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to IYABO S. ALLI whose telephone number is 571-270-1331. The examiner can normally be reached on M-Th 7:30am- 5:00pm; 1st F-OFF & 2nd F- 7:30-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrell McKinnon can be reached on 571-272-4797. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


TERRELL L. MCKINNON
SUPERVISORY PATENT EXAMINER

IYABO S. ALLI
Examiner
Art Unit 2112
November 20, 2006

